

1 THE HONORABLE JAMES L. ROBART  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LIL' MAN IN THE BOAT, INC.,

**No. 2:16-CV-01943-JLR**

Plaintiff,

**NOTICE OF MOTION AND  
STIPULATED MOTION TO DISMISS  
ENTIRE ACTION; ~~PROPOSED~~  
ORDER**

vs.

AUK TA SHAA DISCOVERY, LLC

Defendants.

**NOTE ON MOTION CALENDAR:  
FEBRUARY 7, 2018**

PLEASE TAKE NOTICE that on February 7, 2018, Plaintiff Lil' Man in the Boat, Inc. and Defendant Auk Ta Shaa Discovery, LLC's jointly stipulate to dismiss this entire action, Case No. 2:16-CV-01943-JLR, with prejudice. This motion is supported by the stipulation of all parties, through their counsel of record, as set forth below, the pleadings on file, and upon any further matters the Court deems appropriate.

**STIPULATION**

Subject to approval by this Court, Plaintiff Lil' Man in the Boat, Inc. ("LMITB") and Defendant Auk Ta Shaa Discovery, LLC ("ATS") (collectively, the "Parties") acting through their respective counsel of record, hereby stipulate as follows:

1. WHEREAS, Plaintiff LMITB filed its Complaint for breach of contract in  
2 California state court on February 16, 2016 (the “California Complaint”) and ATS removed it to  
3 the U.S. District Court for the Northern District of California on March 24, 2016;

4. WHEREAS, the U.S. District Court for the Northern District of California issued  
5 an Order Granting Defendant ATS’s Motion to Dismiss Plaintiff LMITB’s First Amended  
6 Complaint on November 14, 2016, Case No. 16-cv-01471-JST (“California Case”);

7. WHEREAS, Plaintiff LMITB filed a notice of appeal of the Order to the U.S.  
8 Court of Appeals for the Ninth Circuit on December 13, 2016 (the “Appeal”);

9. WHEREAS, Plaintiff LMITB filed a Complaint for breach of contract in this  
10 Court on December 20, 2016 (the “Washington Complaint”) regarding the same contract and  
11 nucleus of facts;

12. WHEREAS, on January 11, 2018, the Court of Appeals for the Ninth Circuit  
13 issued its decision on the Appeal that affirmed U.S. District Court for the Northern District of  
14 California’s dismissal of the California Case under Federal Rules of Civil Procedure 12(b)(2)  
15 and 12(b)(6), finding *inter alia* both that there was never any agreement on purchase terms and  
16 that because there was no signature on a written contract by ATS or its broker, any alleged  
17 contract was invalid by operation of the statute of frauds.

18. **THEREFORE, THE PARTIES STIPULATE AND AGREE TO AS FOLLOWS:**

19. 1. The entire Washington Complaint should be dismissed with prejudice, with the  
20 Parties to each bear their own fees and costs.

21. **IT IS SO STIPULATED.**

22. Dated: February 2, 2018

23. **HKM EMPLOYMENT ATTORNEYS LLP**

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10  
11 *Attorneys for Plaintiff*

12  
13 \* *Admitted Pro Hac Vice*

14  
15 Dated: February 2, 2018

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22 *Attorneys for Defendant*

23  
24 **IT IS SO ORDERED.**

25 Dated this 5 day of Feb., 2018

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UNITED STATES DISTRICT JUDGE  
**JAMES L. ROBART**

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STIPULATION AND ORDER TO DISMISS - 4

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